



COUNTY OF HUMBOLDT

AGENDA ITEM NO.

C-14

For the meeting of: March 28, 2017

Date: March 14, 2017

To: Board of Supervisors

From:  Thomas K. Mattson, Public Works Director

Subject: Termination of lease with Redwood Community College District

RECOMMENDATION(S):

That the Board of Supervisors:

1. Approve the termination of the lease with Redwood Community College District (District); and
2. Authorize Real Property to send a thirty (30) day notice of termination to the District; and
3. Direct the Clerk of the Board to return a copy of the executed agenda item to Real Property.

SOURCE OF FUNDING:

General Fund

DISCUSSION:

On December 13, 2016, your Board approved a lease agreement with the District and a sublease agreement

Prepared by  CAO Approval 

REVIEW:

Auditor _____ County Counsel _____ Human Resources _____ Other _____


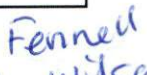
TYPE OF ITEM:

☒ Consent
☐ Departmental
☐ Public Hearing
☐ Other _____

PREVIOUS ACTION/REFERRAL:

Board Order No. C-9

Meeting of: Dec 13, 2016

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT
Upon motion of Supervisor  Seconded by Supervisor 

Ayes    

Nays _____

Abstain _____

Absent 

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: March 28, 2017

By: 

Kathy Hayes, Clerk of the Board

with American Legion Post 494 and Veterans of Foreign Wars Post 6354 for use of the premises located at 286 Sprowel Creek Road, Garberville.

The lease agreement with the District was written to allow the county to lease the premises on behalf of the Veterans. The sublease with the Veterans gave them permission to use the premises, subject to the terms of the lease the county entered into with the District. Both the lease and the sublease allowed for any party involved to terminate each contract with providing a thirty (30) day written notice to the other party.

The Veterans have found a location that they believe is more suitable for holding their monthly meetings and are requesting a termination of their sublease with the county. Therefore, the county has no need to continue the lease with the District and is requesting that your Board approve the lease termination.

Staff will return to your Board for approval of a license and sublicense agreement once the new agreements are signed by the new Licensor and the Veterans.

FINANCIAL IMPACT: The lease cost to the county is Two Hundred Fifteen Dollars (\$215.00) monthly. This payment will cease upon the expiration of the thirty (30) day notice you are authorizing Real Property to send to the District.

This item meets with the Board's strategic framework by providing community appropriate levels of service.

OTHER AGENCY INVOLVEMENT: None

ALTERNATIVES TO STAFF RECOMMENDATIONS: County could continue to lease the space from the District. However, this is not recommended as staff has no other use of the premises once the Veterans are no longer holding their meetings on the premises.

ATTACHMENTS:

1. Thirty day notice of termination received from the Veterans
2. Lease with the District
3. Sublease with the Veterans

ORIGINAL

LEASE AGREEMENT

LESSOR: Redwoods Community College District
LESSEE: County of Humboldt
LEASED PREMISES: 286 Sprowel Creek Road, Room 106
Garberville, CA 95542

Index to Lease Clauses

- | | |
|--|--|
| 1) Description of Premises. | 19) Holding Over. |
| 2) Term. | 20) Notices. |
| 3) Rent. | 21) Effect of Exercise of Privilege of Lessor. |
| 4) Use. | 22) Vacating or Abandonment of Premises. |
| 5) Utilities. | 23) Destruction of Premises. |
| 6) Maintenance and Repairs. | 24) Condemnation. |
| 7) Acceptance of Premises As Is. Surrender at End of Term. | 25) Remedies of Lessor on Default. |
| 8) Alterations and Improvements. | 26) Signs/Displays. |
| 9) ADA Accessibility. | 27) Subordination. |
| 10) Removal of Lessee's Property at End of Term. | 28) Real Estate Taxes. |
| 11) Assignment and Subletting. | 29) Sale of Premises. |
| 12) Insurance. | 30) Binding of Successors. |
| 13) Insurance Hazards. | 31) Integration. |
| 14) Waste. Quiet Conduct. | 32) Time is of the Essence. |
| 15) Prohibited Uses. Law Compliance. | 33) Law. |
| 16) Drug-Free and Smoke-Free Workplace. | 34) Captions Entire Agreement. |
| 17) Entry by Lessor/Others. | 35) Employees. |
| 18) Hold Harmless from Litigation. | 36) Nuclear Free Zone. |

THIS IS A LEASE between Redwoods Community College District hereinafter referred to as Lessor, and County of Humboldt, a political subdivision of the State of California, hereinafter referred to as Lessee.

IT IS AGREED between the parties hereto as follows:

1. **Description of Premises.**

The Lessor hereby leases to the Lessee on the terms and conditions herein set forth, those certain premises located in Garberville, California, the address of the leased premises being 286 Sprowel Creek Road, use of Room 106, two (2) nights per month, on the second and third Wednesday of each month, between 5:00 pm and 7:00 pm, along with joint use of restrooms, hallways, and outside areas at no additional cost.

This Lease excludes use by Lessee of any other rooms on the Premises. Lessor shall have the right to use or lease any of the facilities and property not being leased by Lessee pursuant to this Lease.

2. **Term.**

The term of the Lease shall be month-to-month beginning November 15, 2016.

This Lease may be terminated by either party with or without cause and without penalty upon 30 days written notice to the other party.

3. **Rent.**

The annual rent for Room 106 of said building with use of two (2) nights per month, with access to restrooms, hallways, and outside areas at no additional costs, shall be Two Thousand Five Hundred Eighty Dollars (\$2,580.00), and payable in monthly installments of Two Hundred Fifteen dollars (\$215.00). No property taxes are included in the rental amounts.

3.1 **Late Charge.** Rent is due and payable on the first day of each calendar month during the term of this Lease. For any payment received by or on behalf of Lessor more than ten (10) calendar days after its due date, Lessee shall also be assessed a late fee of ten percent (10%) of any such late Rent payment.

4. **Use.**

The Premises are leased to the Lessee for the purpose of providing a meeting space for the Veterans of Foreign Wars Post No. 6354 and American Legion Post No. 494 (Veterans). Lessee shall coordinate with other tenants to ensure that the entire premises (doors and gate to parking area) is locked and secured prior to leaving Premises. Lessee agrees to monitor clientele in order that they do not interfere with the other tenants' use of the facilities. Lessee shall keep the leased premises neat and clean.

5. **Utilities.**
The Lessor shall provide all electrical and propane utilities, garbage, water, and sewer services at no additional cost. Lessee shall be responsible for telephone, Internet, and data service.
6. **Maintenance and Repairs.**
Structural portions of the Premises shall be maintained by Lessor. Lessor will maintain bathrooms and hallway and also maintain Lessee's leased Premises as needed. Lessor will be responsible for the major repair or replacement to the heating unit/air conditioning unit belonging to the Lessor. Lessee shall be responsible for any repairs caused by negligence of Lessee's personnel, its agents, officers, invitees, or subleases.
7. **Acceptance of Premises As Is. Surrender at End Term.**
By entry hereunder, Lessee accepts the Premises as is. Lessee agrees on the last day of said term, or sooner termination of this Lease, to surrender unto Lessor all and singular said Premises, with said appurtenances in the same condition as when received, reasonable use and wear thereof and damage by fire, act of God, or by the elements excepted, and to remove all of Lessee's signs from said Premises.
8. **Alterations and Improvements.**
The Lessee shall not make, or suffer to be made, any alterations of the said Premises or any part thereof, without first having obtained the written consent of the Lessor. Any additions to, or alterations of, the said Premises, except unattached moveable furniture and trade fixtures, shall become at once part of the realty and belong to the Lessor. Lessee shall keep the demised Premises and the property in which the demised premises are situated free from any liens arising out of any work performed, materials furnished, or obligations incurred by Lessee.
9. **ADA Accessibility.**
Lessor agrees to make reasonable efforts to resolve any ADA accessibility issue that may arise during the term of the Lease. The Lessor has identified accessible pathways to the building and to accessible restrooms. Lessor is committed to ensuring reasonable accommodations are provided where appropriate and economically feasible, as determined by the Lessor.
10. **Removal of Lessee's Property at End of Term.**
Conditioned upon Lessee being in full and complete performance of all of the provisions of this Lease, Lessee may remove all unattached personal property it may own located on the demised Premises and the same shall be removed by Lessee at the expiration or termination of this Lease, or any renewal hereof, provided that the same may be removed without damage to the building, and if damage is caused by such removal, Lessee agrees to repair such damage at his own cost forthwith. Any items permanently attached to the Premises by Lessee, which cannot be removed without damage to the demised Premises, shall become the property of Lessor upon termination of this Lease.

11. **Assignment and Subletting.**

Lessor agrees that Lessee is authorized to sublease the leased premises to Veterans, subject to all terms of this agreement. Lessee agrees to provide Lessor with a copy of any and all sublet agreements. Lessee shall not assign or sublet this agreement to any other party for more than seven (7) days without the written consent of Lessor. Lessor shall not unreasonably withhold its approval of Lessee's assignment of this Lease or subletting of the Premises. In the event of a sublease, Lessee shall remain responsible under this Lease and shall require the sub-lessee to comply with all provisions of this lease. All sublease documents shall be provided to Lessor prior to occupancy by the Sub-lessee.

12. **Insurance.**

Lessor shall take out and maintain throughout the period of this Lease fire insurance on the structure on the Premises.

Lessee shall take out and maintain throughout the period of this agreement comprehensive general liability insurance with minimum limits of \$2,000,000 per occurrence, covering all bodily injury and property damage arising out of its operations under this agreement. Said policy shall name the Lessor as additional insured, and shall constitute primary insurance as to Lessor, its officers, officials, employees, and volunteers, so that any other policies held by Lessor shall not contribute to any loss under said insurance. Said policy shall provide for thirty (30) days prior written notice to Lessor of cancellation or material change. A Certificate of Self-Insurance from Lessee shall suffice for the above requirements. Proof of insurance shall be provided to Lessor prior to any occupancy by Lessee.

13. **Insurance Hazards.**

No use shall be made or permitted to be made of the said Premises, nor acts done, which will increase the existing rate of insurance upon the building in which said Premises may be located, or cause a cancellation of any insurance policy covering said building or any part thereof, nor shall the Lessee sell, or permit to be kept, used or sold, in or about the Premises, any article which may be prohibited by the standard form of fire insurance policies. The Lessee shall, at his sole cost and expense, comply with any and all requirements pertaining to said Premises of any insurance organization or company necessary for the maintenance of reasonable fire and public liability insurance covering said building and appurtenances.

14. **Waste, Quiet Conduct.**

The Lessee shall not commit, or suffer to be committed, any waste upon the said Premises or any public or private nuisance.

15. **Prohibited Uses - Law Compliance.**

Lessee agrees that the herein demised Premises shall not be used or be permitted to be used in whole or in part in violation of any of the laws, ordinances, regulations or rules of any public authority at anytime applicable thereto. Lessee may not sell, serve, or permit the use of alcoholic beverages upon the Leased Premises.

16. **Drug-Free and Smoke-Free Workplace.**

Pursuant to Humboldt County Code Section 971-1 et seq., County owned or leased premises are smoke free. Lessor and Lessee shall comply with said provision. Premises are designated as a Drug-Free Workplace. Lessee shall abide by and adhere to this policy.

17. **Entry by Lessor/Others.**

The Lessee shall permit the Lessor and its agents to enter upon said Premises at all reasonable times that are not scheduled for use by Lessee for the purpose of inspecting the same or for the purpose of maintaining the building in which the said Premises are situated, or for the purpose of making repairs, alterations, or additions to any other portion of said building, and with such material as Lessor may deem necessary therefor. Lessee agrees to allow Lessor and any other tenant access to Room 106 at all times that room is not in scheduled use by Lessee, as per Section 1, of this agreement.

18. **Hold Harmless from Litigation.**

Lessee agrees that if Lessor is involuntarily made a party defendant to any litigation concerning this Lease or the demised Premises or the Premises of which the demised Premises are a part by reason of any act or omission of Lessee and not because of any act or omission of Lessor, then Lessee shall hold harmless the Lessor from all liability by reasons thereof, including reasonable attorney's fees incurred by Lessor in such litigation and all court costs. Lessor agrees that if Lessee is involuntarily made a party defendant to any litigation concerning this Lease or the demised Premises or the Premises of which the demised Premises are a part due to an act or omission of Lessor and not because of any act or omission of Lessee, the Lessor shall hold harmless the Lessee from all liability by reason thereof, including reasonable attorney's fees incurred by Lessee in such litigation and all court costs.

19. **Holding Over.**

Any holding over after the expiration of said term, with the consent of the Lessor, shall be construed to be a tenancy from month-to-month, at a rental of the then-current monthly rental rate, payable monthly in advance, and shall otherwise be on the terms and conditions herein specified, so far as applicable.

20. **Notices.**

Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by certified mail, return receipt requested, to the respective address set forth below. Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

Lessor: Redwoods Community College District
Vice President, Administrative Services
7351 Tompkins Hill Road
Eureka, CA 95501

Lessee: County of Humboldt
Public Works Division
1106 Second Street
Eureka, CA 95501

All insurance notices shall also be sent to:

County of Humboldt
Attn: Risk Management
825 Fifth Street, Room 131
Eureka, CA 95501

21. **Effect of Exercise of Privilege by Lessor.**

The exercise of any right or option or privilege hereunder by Lessor shall not exclude Lessor from exercising any and all other rights, privileges, and options hereunder and Lessor's failure to exercise any right, option, or privilege hereunder shall not be deemed a waiver of said right, option or privilege nor shall it relieve Lessee from Lessee's obligation to perform each and every covenant and condition on Lessee's part to be performed hereunder nor from damages or other remedy for failure to perform or meet the obligations of this Lease.

22. **Vacating or Abandonment of Premises.**

The Lessee shall not vacate or abandon the Premises at any time during the term, except as defined above in sections 2, 7 and 10, and if Lessee shall abandon, vacate or surrender said Premises, or be dispossessed by process of law, or otherwise, any personal property belonging to the Lessee and left on the Premises shall be deemed to be abandoned, at the option of the Lessor, except such property as may be mortgaged to Lessor, if any.

23. **Destruction of Premises.**

In the event of a partial destruction of said Premises during the said term, from any cause, the Lessor shall forthwith repair the same, provided such repairs can be made within one hundred twenty (120) days under the laws and regulations of State, County or Municipal authorities, and materials and labor are available for such repairs, but such partial destruction shall in no way annul or void this Lease, except that the Lessee shall be entitled to a proportionate deduction of rent while such repairs are being made, such proportionate deduction to be based upon the extent to which the making of such repairs shall interfere with the business carried on by Lessee in said Premises. If such repairs cannot be made in one hundred twenty (120) days, Lessor may, at his option, make same within a reasonable time, this Lease continuing in full force and effect and the rent to be proportionately rebated as aforesaid in this paragraph provided. In the event that the Lessor does not so elect to make such repairs within such time, this Lease may be terminated at the option of either party upon providing written notice to the other party.

In the event that the building in which the demised Premises may be situated be destroyed to the extent of more than thirty-three and one-third percent (33-1/3%) of the replacement cost thereof, the Lessee may elect to terminate this Lease upon written notice to Lessor. A total destruction of the building in which the Premises are situated shall terminate this Lease.

24. **Condemnation**

If any part of the demised Premises shall be taken or condemned for a public or quasi-public use, and a part thereof remains which is susceptible of occupation hereunder, this Lease shall, as to the part so taken, terminate as of the date title shall vest in the condemner, and the rent payable hereunder shall be adjusted so that the Lessee shall be required to pay for the remainder of the term only such portion of such rent as the value of the part remaining after the condemnation bears to the value of the entire Premises at the date of condemnation; but in such event Lessor shall have the option to terminate this Lease as of the date when title to the part so condemned vests in the condemner. If all of the demised Premises or such part thereof be taken or condemned so that there does not remain a portion susceptible for occupation hereunder, this Lease shall thereupon terminate.

25. **Remedies of Lessor on Default.**

This Lease is made upon the express condition that if default be made in the payment of the rent above reserved, or any part thereof, or if Lessee shall abandon or vacate said Premises, in addition to all other available legal rights or remedies, Lessor or the legal representative of Lessor at anytime thereafter without notice or demand, may lawfully declare said term ended, and re-enter said demised Premises or any part thereof, with or without process of law, and expel, remove and put out Lessee or any person or persons occupying said Premises, and may remove all personal property therefrom, and store the same in a public warehouse at the cost of and on the account of Lessee, using such force as may be necessary to repossess and enjoy the said Premise as before this demise, without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant or condition, and without liability to any person for damages sustained by reason of such removal. Lessor may likewise at Lessor's option, but at the cost of Lessee, and in addition to any other remedies which Lessor may have upon such default or failure or neglect and without notice to Lessee, petition the Superior Court of the State for, and be entitled as a matter of right to, the appointment of a receiver and said Court may appoint such receiver and vest in him such powers and authority as may be necessary or proper to fully protect all the rights herein granted or reserved to Lessor. Any such receiver may take possession of any personal property belonging to Lessee and used in the conduct of the business then being carried by the Lessee in the said Premises, and may use the same in conducting such business on the Premises, without compensation to the Lessee.

Should Lessor elect to re-enter, as herein provided, or should he take possession pursuant to legal proceedings pursuant to any notice provided for by law, he may, in addition to any other remedies Lessor may have upon such default, failure or neglect, either terminate this Lease or he may from time-to-time, without terminating this Lease, re-let

said Premises, or any part thereof, for such term or terms and at such rental or rentals and upon such other terms and conditions as Lessor in his sole discretion may deem advisable with the right to make alterations and repairs to said Premises. Rentals received by Lessor from such reletting shall be applied: first, to the payment of any indebtedness, other than rent, due hereunder from Lessee to Lessor; second, to the payment of rent due and unpaid hereunder; third, to the payment of any costs of such re-letting, including commissions; fourth, to the payment of the costs of any alterations and repairs to the Premises; and the residue, if any, shall be held by Lessor and applied in payment of future rent as the same may become due and payable hereunder. Should such rentals received during the month be less than agreed to be paid during that month by Lessee hereunder, then Lessee shall pay such deficiency to Lessor. Such deficiency shall be calculated and paid monthly. No such re-entry or taking possession of said Premises by Lessor shall be construed as an election on his part to terminate this Lease unless written notice of such intention be given to Lessee or unless the termination thereof be decreed by a court of competent jurisdiction. Notwithstanding any such re-letting without termination, Lessor may at any time thereafter elect to terminate this Lease for such previous breach. Should Lessor at any time terminate this Lease for any breach, in addition to any other remedy he may have, he may recover from Lessee all damages he may incur by reason of such breach, including the cost of recovering the Premises and including the worth at the time of such termination of the excess, if any, of the amount of rent and charges equivalent to rent reserved in this Lease for the remainder of the stated term, all of which amounts shall be immediately due and payable from Lessee. No notice of the exercise of any election given Lessor herein need be given.

26. **Signs/Displays.**

The Lessee shall not place or permit to be placed any sign on the front of said Premises, nor place any signs upon the stairs, hallways, vestibules and entrance doors, where such are used in common with other Lessees, nor upon the windows or the sidewalks adjacent to said demised Premises, without the written consent of the Lessor, except as specifically provided otherwise herein.

27. **Subordination.**

Lessee agrees at any time or from time-to-time upon request of Lessor to execute and deliver any instruments necessary to cause this Lease to be subordinate to any mortgage, deed of trust or other instrument of security now, which in the future may be, or which is about to be placed on said Premises and Lessee hereby appoints Lessor and Lessee's authorized agent, irrevocably, to execute and deliver such instruments.

28. **Real Estate Taxes.**

The lease agreement may create a possessory interest, as described in Section 107 et seq. of the Revenue and Taxation Code of the State of California, in tax exempt property. If such an interest is created, it may be subject to property taxation and the party in whom the possessory interest is vested may be subject to the payment of taxes on such interest.

29. **Sale of Premises.**

Lessor reserves the right to enter into negotiations to sell the leased Premises. If Lessor enters into such negotiations, Lessor agrees to provide Lessee with a six-month written notice.

30. **Binding on Successors.**

The covenants and conditions herein contained shall, subject to the provisions as to assignments, apply to and bind the heirs, successors, executors, administrators and assigns of all the parties hereto; and all the parties hereto shall be jointly and severally liable hereunder.

31. **Integration.**

It is understood that there are no oral or written agreements or representations between the parties hereto affecting the Lease, and that the Lease as amended supersedes, cancels and merges any and all previous verbal or written agreements and understandings, if any, made by or between Lessor and Lessee, and their agents, with respect to the subject matter thereof, and none such shall be used to interpret, construe, supplement, or contradict the Lease. The Lease and all amendments hereto, are and shall be considered to be the only agreement between the parties and their representatives and agents. There are no other representations or warranties between the parties and any and all reliance with respect to representations shall be solely based upon the representations and agreements contained in the Lease.

32. **Time is of the Essence.**

Time is hereby expressly declared to be of the essence of this Lease and all of the covenants, agreements, conditions and obligations herein contained.

33. **Law.**

This Lease agreement shall be governed by the laws of the State of California. Any dispute arising hereunder or relating to this Lease shall be litigated in the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to Code of Civil Procedure §§394 and 395.

34. **Captions Entire Agreement.**

The titles or headings to the paragraphs of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part thereof. This Lease contains the entire agreement between the parties and cannot be amended or modified except by a written agreement executed by the party to be charged with any amendment or modification.

35. **Employees.**

Unless otherwise agreed to in writing by the parties, all agents, servants, and employees of the Lessee shall be under the exclusive management control of Lessee and shall not be agents, servants, or employees of the Lessor for any purposes whatsoever. It is specifically acknowledged that the programs provided by Lessee and any of its agents, servants, or employees are entirely and exclusively under the supervision and control of

Lessee, and no person so employed shall have any status or right with regard to the Lessor.

36. **Nuclear Free Clause**

LESSOR certifies by its signature below that Lessor is not a nuclear weapons contractor, in that LESSOR is not knowingly or intentionally engaged in the research, development, production, or testing of nuclear warheads, nuclear weapons systems, or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. LICENSOR agrees to notify LESSEE immediately if it becomes a nuclear weapons contractor, as defined above. LESSEE may immediately terminate this LICENSE if it determines that the foregoing certification is false or if LESSOR becomes a nuclear weapons contractor.

Date: _____

Date: _____

LESSOR:

Redwoods Community College District
7351 Tompkins Hill Road
Eureka, CA 95501

LESSEE:

County of Humboldt

By: _____

Keith Snow-Flamer
Interim, President

By: _____

Chairman, Board of Supervisors
County of Humboldt
State of California

ATTEST:

Clerk of the Board

By: _____

Deputy

ORIGINAL

SUBLEASE

This SUBLEASE is made and entered into this 15th day of November, 2016, by and between the COUNTY OF HUMBOLDT, a political subdivision of the State of California, hereinafter referred to as COUNTY, and American Legion Post No. 494 and Veterans of Foreign Wars Post No. 6354, hereinafter referred to as SUBLESSEE;

WHEREAS, COUNTY leases property located at 286 Sprowel Creek Road, Garberville, California, from Redwood Community College District, hereinafter referred to as LESSOR; and

WHEREAS, the lease between COUNTY and LESSOR is for a month-to-month term commencing November 15, 2016; and

WHEREAS, LESSOR has consented to and approved the SUBLEASE, subject to all terms of the Lease Agreement signed between LESSOR and COUNTY on November 15, 2016, attached hereto as Exhibit A, between COUNTY and SUBLESSEE; and

WHEREAS, SUBLESSEE desires to SUBLEASE premises for an office and COUNTY desires to SUBLEASE the premises described herein to SUBLESSEE;

NOW, THEREFORE, it is mutually agreed as follows:

1. PREMISES

COUNTY subleases to SUBLESSEE and SUBLESSEE subleases from COUNTY the following described premises located in Garberville, County of Humboldt, State of California:

Shared use of Room 106 located at 286 Sprowel Creek Road, Garberville, California. The subleased premises shall also include the use of the restrooms, hallways and outside areas.

2. USE OF PREMISES

The premises shall be used by SUBLESSEE for a meeting room for SUBLESSEE. SUBLESSEE shall have use of Room 106, two (2) nights per month, on the second and third Wednesday of each month, between 5:00 pm and 7:00 pm. SUBLESSEE shall coordinate with other tenants to ensure that the entire premises (doors and gate to parking area) is locked and secured prior to

leaving Premises. SUBLESSEE agrees to monitor clientele in order that they do not interfere with the other tenants' use of the facilities.

3. QUIET ENJOYMENT

Subject to the provisions of this SUBLEASE and conditioned upon performance of all the provisions performed by SUBLESSEE hereunder, COUNTY shall secure to SUBLESSEE during the term the quiet and peaceful possession of the premises and all rights and privileges appertaining thereto.

4. TERM OF SUBLEASE

The term of this SUBLEASE shall commence on October 1, 2016, and continue on a month-to-month basis until either party gives 30 days written notice to the other party.

5. CONSIDERATION

The consideration for the use of said premises shall be the benefit to the Veterans of the Garberville area.

6. SMOKING

Pursuant to Humboldt County Code §971-1 et seq., COUNTY owned or subleased premises are smoke free. SUBLESSEE shall comply with said provision.

7. UTILITIES

SUBLESSEE shall be responsible for telephone, Internet and data service.

8. JANITORIAL

SUBLESSEE shall keep the leased premises neat and clean.

9. MAINTENANCE AND REPAIRS

During the term of this SUBLEASE or any extension thereof, SUBLESSEE shall be responsible for:

A. Any repairs caused by negligence of SUBLESSEE'S personnel, agents, officers, or invitees.

- B. Any repairs to SUBLESSEE'S phone system or computers.

10. IMPROVEMENTS AND ALTERATIONS

SUBLESSEE shall not make any alterations or improvements to the subleased premises without the prior written consent of LESSOR.

SUBLESSEE, at its own cost, may install in the premises the equipment needed for telecommunication system and computer terminals including, but not limited to, the following:

- A. Telephone cable
- B. Telephones; and
- C. Answering machines

Upon termination of the SUBLEASE, SUBLESSEE shall have the right to remove from the premises any such equipment installed by SUBLESSEE.

11. INSTALLATION AND REMOVAL OF TRADE FIXTURES

SUBLESSEE shall not make, cause or permit to be installed and/or affixed to the premises any fixtures, signs or equipment without the prior written consent of LESSOR and COUNTY. All such fixtures, signs and equipment shall remain the property of SUBLESSEE and may be removed at any time provided that SUBLESSEE, at its expense, shall repair any damage caused by such removal.

12. SUBLESSEE'S RIGHT TO ERECT SIGNS

Upon LESSOR'S and COUNTY'S approval, SUBLESSEE shall have the right to erect and maintain signs upon the premises.

13. HOLD HARMLESS/INDEMNIFICATION

A. SUBLESSEE shall indemnify, defend and hold harmless LESSOR , COUNTY and its officers, officials, employees, and volunteers, from any and all claims, demands, losses, damages, and liabilities of any kind or nature, including attorney's fees, which are caused by any negligent or willful acts of misconduct or omissions (either directly or through or by its officers, agents or employees) in connection with SUBLESSEE'S duties and obligations under this Agreement and any amendments hereto, except such loss or damage which was caused by the sole negligence or willful misconduct of the LESSOR or COUNTY.

B. Acceptance of insurance, if required by this Agreement, does not relieve SUBLESSEE from liability under this indemnification clause. This indemnification clause shall apply to all damages or claims for damages suffered by SUBLESSEE'S operations regardless if any insurance is applicable or not.

14. SUBLESSEE'S INSURANCE

This SUBLEASE shall not be executed by COUNTY and SUBLESSEE is not entitled to any rights, unless certificates of insurances, or other sufficient proof that the following provisions have been complied with, and such certificate(s) are filed with the Clerk of the Humboldt County Board of Supervisors.

Without limiting SUBLESSEE'S indemnification provided for herein, SUBLESSEE shall and shall require any of its subcontractors to take out and maintain, throughout the period of this Agreement and any extended term thereof, the following policies of insurance placed with insurers authorized to do business in California and with a current A.M. Bests rating of no less than A:VII or its equivalent against injury/death to persons or damage to property which may arise from or in connection with the activities hereunder of SUBLESSEE, its agents, officers, directors, employees, licensees, invitees, assignees or subcontractors.

A. Comprehensive or Commercial General Liability Insurance

Comprehensive or Commercial General Liability Insurance at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001), in an amount of \$1,000,000 for any one incident, including personal injury, death and property damage. If a general aggregate limit is used, either the general aggregate limit shall apply separately to this project or the general aggregate shall be twice the required occurrence limit.

B. Property Insurance

SUBLESSEE is responsible for providing "All-Risk" property insurance for SUBLESSEE's personal property for this location.

C. Workers' Compensation Insurance Coverage

Workers' Compensation Insurance, as required by the Labor Code of the State of California, with statutory limits, and Employers Liability Insurance with a limit of no less than One Million Dollars (\$1,000,000.00) per accident for bodily injury or disease. Said policy shall contain, or be endorsed to contain, a waiver

of subrogation against COUNTY, its agents, officers, officials, employees and volunteers.

If SUBLESSEE has no employees, SUBLESSEE may sign the following certification in lieu of Workers' Compensation Insurance:

"I am aware of the provisions of California Labor Code Section 3700 which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with provisions of that code before commencing with and during the performance of the work of this Agreement."

SUBLESSEE: Jan Pichler Loren Pomoot

15. SPECIAL INSURANCE REQUIREMENTS

Said policies shall unless otherwise specified herein be endorsed with the following provisions:

A. SUBLESSEE

1. The Comprehensive General Liability Policy shall provide that the LESSOR, COUNTY, its officers, officials, employees, and volunteers are covered as additional insured for liability arising out of the operations performed by or on behalf of SUBLESSEE. The coverage shall contain no special limitations on the scope of protection afforded to the COUNTY, its officers, officials, employees, and volunteers. Said policy shall also contain a provision stating that such coverage:

- a. Includes contractual liability.
- b. Does not contain exclusions as to loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to "XCU Hazards".
- c. Is primary insurance as regards to County.
- d. Does not contain a pro-rata, excess only, and /or escape clause.
- e. Contains a cross liability, severability of interest or separation of insureds clause.
- f. Shall not be canceled, non-renewed or materially reduced in coverage without thirty (30) days prior written notice being provided to COUNTY and in accordance with the Notice provisions set forth under Section 22. It is further understood that SUBLESSEE shall not

terminate such coverage until it provides COUNTY with proof satisfactory to COUNTY that equal or better insurance has been secured and is in place.

g. Is primary coverage to COUNTY, and insurance or self-insurance programs maintained by COUNTY are excess to SUBLESSEE'S insurance and will not be called upon to contribute with it.

2. SUBLESSEE shall furnish COUNTY with certificates and original endorsements effecting the required coverage prior to execution of this Agreement by COUNTY. The endorsements shall be on forms as approved by the COUNTY'S Risk Manager or County Counsel. Any deductible or self-insured retention over \$100,000 shall be disclosed to and approved by COUNTY. If SUBLESSEE does not keep all required policies in full force and effect, COUNTY may, in addition to other remedies under this Agreement, take out the necessary insurance, and SUBLESSEE agrees to pay the cost of said insurance. COUNTY is also hereby authorized with the discretion to deduct the cost thereof from the monies owed to COUNTY under this Agreement.

3. COUNTY is to be notified immediately if twenty-five percent (25%) or more of any required insurance aggregate limit is encumbered and SUBLESSEE shall be required to purchase additional coverage to meet the aggregate limits set forth above.

a. Contains a cross liability, severability of interest or separation of insureds clause.

b. The policies shall not be canceled, non-renewed or materially reduced in coverage without thirty (30) days prior written notice being provided to COUNTY and in accordance with the Notice provisions set forth under Section 22. It is further understood that COUNTY shall not terminate such coverage until it provides COUNTY with proof satisfactory to COUNTY that equal or better insurance has been secured and is in place.

c. SUBLESSEE shall furnish COUNTY with certificates and original endorsements effecting the required coverage of this Agreement by COUNTY.

B. SUBLESSEE AND COUNTY

1. SUBLESSEE and COUNTY agree that insurance carried or required to be carried by either of them against loss or damage to property by fire, flood, earthquake, acts of terrorism, acts of war or other casualty shall contain a clause whereby the insurer waives its right to subrogation

against the other party, its elected officials, directors, employees, volunteers, and agents and each party shall indemnify the other against any loss or expense, including reasonable attorney's fees resulting from the failure to obtain such waiver.

2. The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability.

3. Any failure to comply with reporting or other provisions of the Parties, including breach of warranties, shall not affect coverage provided to SUBLESSEE, COUNTY, their officers, officials, employees, and volunteers.

16. PARKING

Subleased premises provides shared off-street parking spaces.

17. USE UNLAWFUL OR PREMISES CONDEMNED

If it becomes unlawful for SUBLESSEE to conduct its intended operations on the premises, or if a portion of the premises or approaches thereto is condemned by public authority so that it becomes impossible to use the premises, or if any highway or street change is made diverting or re-routing traffic away from the premises so that the premises become impossible to use, SUBLESSEE shall have the right at any time thereafter to terminate this SUBLEASE by giving COUNTY seven (7) days notice in writing of such termination.

18. NUCLEAR FREE CLAUSE

SUBLESSEE certifies by its signature below that SUBLESSEE is not a nuclear weapons contractor, in that SUBLESSEE is not knowingly or intentionally engaged in the research, development, production, or testing of nuclear warheads, nuclear weapons systems, or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. SUBLESSEE agrees to notify COUNTY immediately if it becomes a nuclear weapons contractor, as defined above. COUNTY may immediately terminate this SUBLEASE if it determines that the foregoing certification is false or if SUBLESSEE becomes a nuclear weapons contractor.

19. SUBLESSEE DEFAULT

SUBLESSEE shall be in default of this SUBLEASE if it fails or refuses to perform any material provision of this SUBLEASE that it is obligated to perform if the failure to perform is not cured within ten (10) days after written notice of the default has been given by COUNTY to SUBLESSEE. If the default cannot reasonably be cured within ten (10) days, SUBLESSEE shall not be in default of this SUBLEASE if SUBLESSEE commences to cure the default within the ten (10) day period and diligently and in good faith continues to cure the default.

20. COUNTY'S REMEDIES ON SUBLESSEE'S DEFAULT

COUNTY, at any time after SUBLESSEE is in default, can terminate this SUBLEASE or can cure the default at SUBLESSEE'S cost. If COUNTY at any time, by reason of SUBLESSEE'S default, pays any sum or does any act that requires the payment of any sum, the sum paid by COUNTY shall be due from SUBLESSEE to COUNTY within five (5) days of notice of such sum, and if paid at a later date shall bear interest at the maximum rate COUNTY is permitted by law to charge from the date the sum is paid by SUBLESSEE until COUNTY is reimbursed by SUBLESSEE. The remedies set forth in this paragraph are in addition to and do not in any manner limit other remedies set forth in particular paragraphs of this SUBLEASE.

21. TERMINATION

COUNTY reserves the right to terminate this SUBLEASE, upon seven (7) days written notice, for any cause or reason provided by the SUBLEASE itself, or by law, or upon the happening of one or more of the following:

A. The making by SUBLESSEE of any general assignment for the benefit of creditors.

B. The failure of SUBLESSEE to pay promptly when due all charges, fees, or other payments in accordance with this SUBLEASE.

C. The failure of SUBLESSEE to remedy any default, breach, or violation of county, municipal, federal and/or state laws or regulations by SUBLESSEE or its employees.

D. The violation of any of the provisions of this SUBLEASE.

E. The building becomes damaged due to fire, flood, earthquake, or any other natural disaster.

F. Intentionally supplying COUNTY with false or misleading information or misrepresenting any material fact on its application or documents or in its

statement to or before COUNTY, or intentional failure to make full disclosure on its financial statement or other documents.

22. NOTICE

Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by certified mail, return receipt requested, to the respective addresses set forth below. Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

SUBLESSEE: American Legion Post No. 494
Veterans of Foreign Wars Post No. 6354
PO Box 133
Garberville, CA 95542

COUNTY: County of Humboldt
Public Works
Real Property Division
1106 Second Street
Eureka, CA 95501

All insurance notices shall also be sent to:

County of Humboldt
Attn: Risk Manager
825 Fifth Street, Room 131
Eureka, CA 95501

23. ASSIGNMENT

This SUBLEASE shall not be assigned by either party without the written consent of the other party and LESSOR.

24. SUBLEASE MODIFICATION

This SUBLEASE may be modified only by subsequent written agreement signed by SUBLESSEE and COUNTY.

25. SUBLESSEE NOT OFFICER, EMPLOYEE, OR AGENT OF COUNTY

While engaged in carrying out and complying with the terms and conditions of this SUBLEASE, SUBLESSEE is an independent contractor and not an officer, employee, or agent of COUNTY.

26. WAIVER OF BREACH

The waiver by COUNTY of any breach of any provisions of this SUBLEASE shall not constitute a continuing waiver of any subsequent breach of the same or a different provision of this SUBLEASE.

27. BREACH, REMEDY FOR

In the event of breach of this SUBLEASE by SUBLESSEE or COUNTY, SUBLESSEE and/or COUNTY shall have all rights and remedies provided by law.

28. SURRENDER OF PREMISES

At the termination of this SUBLEASE, SUBLESSEE shall surrender the premises to COUNTY in good condition and repair, except for normal wear and tear. SUBLESSEE shall be under no obligation to repair or restore the whole or any portion of the building which may be damaged by reason of fire, earthquake, the elements or other casualty.

29. BINDING EFFECT

All provisions of this SUBLEASE shall be fully binding upon, and inure to the benefit of, the parties and to each of their heirs, executors, successors, and assigns.

30. JURISDICTION AND APPLICABLE LAWS

This SUBLEASE shall be construed under the laws of the State of California. Any dispute arising hereunder or relating to this SUBLEASE shall be litigated in the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to Code of Civil Procedure §§394 and 395.

31. INTERPRETATION

As this SUBLEASE was jointly prepared by both parties, the language in all parts of this SUBLEASE shall be construed, in all cases, according to its fair meaning, and not for or against either party hereto.

IN WITNESS WHEREOF, this SUBLEASE has been executed by the parties

//
//
//
//

hereto upon the date first written above.

(SEAL)

ATTEST:
CLERK OF THE BOARD

COUNTY OF HUMBOLDT

BY *for the clerk*

BY *Mark K. K.*

CHAIRPERSON,
BOARD OF SUPERVISORS
COUNTY OF HUMBOLDT
STATE OF CALIFORNIA

SUBLESSEE:

BY *[Signature]*

TITLE *CHIEF VFW 6354*

BY *Tom Petta American Post 494*

TITLE *Ad5 - Past CMDR.*